

REMARKS

Claims 1-6 and 13-27 stand rejected under 35 U.S.C. §103 as being unpatentable over United States Patent No. 6,694,288 to Smocha et al. in view of United States Patent No. 6,470,464 to Bertram et al. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the cited references fail to disclose or suggest all of the features of the present invention. More specifically, neither the Smocha et al. reference or the Bertram et al. reference, alone or in combination, disclose or suggest a load monitoring condition determination method that includes, *inter alia*, the step of “determining a load monitoring condition” from: (a) “the amount of load given to the computer system,” (b) “the results of measuring the response or throughput,” and (c) “the results of measuring the resource situation inside the computer system,” and the step of “performing load monitoring on only the load monitoring condition, or conditions, determined during the load monitoring condition determining step,” as defined in amended independent Claim 1. Similar features are also defined in amended independent Claims 5 and 21.

In the present invention, a load is provided to a computer system, and various parameters within the system are measured while the load is being provided. One of the objects of the present invention is to analyze the situation within the computer system, and to determine the most effective resource item(s) to be monitored, and to monitor only the resource item(s) determined to be most necessary to monitor. *See, e.g.,* Applicants’ Specification, page 5, paragraph [0017]. Thus, the present invention includes, *inter alia*,

means for “determining” a load monitoring condition and means for “performing load monitoring on only the load monitoring condition, or conditions, determined during the load monitoring condition determining step” (emphasis added). Applicants’ Figure 2 is a flowchart of the important features of the present invention, and includes the following three phases: Phase 1, the load test phase (including steps S10-S17); Phase 2, the load monitoring condition determination phase (including steps S18 and S19); and Phase 3, the load monitoring operation (including Steps S20-S23).

In contrast to the present invention, the system of the Smocha et al. reference fails to disclose or suggest anything about determining a load monitoring condition (based on the amount of load, the results of measuring the response or throughput and the results of measuring the resource situation within the computer system), and then performing load monitoring on *only* the load monitoring condition(s) determined during the load monitoring determination step. Instead, the Smocha et al. reference merely discloses monitoring various parameters, and analyzing the results, but does not disclose or suggest anything about *determining* a load monitoring condition, or conditions, based on various measured results, that load monitoring is to be subsequently performed upon. Additionally, the Bertram et al. reference also suffers from a similar defect. Accordingly, as all of the features of independent Claims 1, 5 and 21 are not disclosed or suggested in the cited references, Applicants respectfully request the withdrawal of this §103 rejection of independent Claims 1, 5 and 21 and associated dependent Claims 2-4, 6, 13-20, and 22-27.

For all of the above reasons, Applicants request reconsideration and allowance of the claimed invention. Should the Examiner be of the opinion that a telephone conference would aid in the prosecution of the application, or that outstanding issues exist, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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January 17, 2007

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